

ORIGINAL

DS131646
3-21CV1240-X

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

CAUSE NO. _____

2021 MAY 28 PM 2:19

SHIRLEY WALKER-KING

§

IN THE US NORTHERN

Plaintiff

§

DISTRICT COURT

§

v.

§

DALLAS, TEXAS

§

WAGEWORKS INC.

§

US JUDICIAL DISTRICT

Defendant

§

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF THIS COURT:

COMES NOW Shirley Walker-King, hereinafter "Plaintiff," and files this petition complaining of the City of Northern Texas, and specifically WAGEWORKS INC., hereinafter "Defendant," and in support respectfully shows unto the Court the following:

DISCOVERY CONTROL PLAN LEVEL

1. Plaintiff intends that discovery be conducted under Discovery

Level 2

PARTIES AND SERVICE

2. Plaintiff is an African American female of more than fifty years of age with a disability, 345 whose address is 1918 Garrison Way, Garland, TX 75040. The last three numbers of Plaintiff's social security number are 920.

3. Defendant is a municipality located at 4609 Regent Blvd, IRVING, TX 75063 where the Defendant may be served by stated address above, certified mail, return receipt requested in accordance with Section 17.024 of the Texas Civil Practice and Remedies Code.

JURISDICTION AND VENUE

4. The subject matter in controversy exceeds the jurisdictional minimum of this Court.

5. Jurisdiction and Venue in Northern Texas District Court is proper in this cause pursuant to Middle, Tennessee, District Court Bishop vs. Woodbury, April 10, 2010.

STATEMENT OF FACTS

6. Plaintiff worked for WAGEWORKS INC. June 2017-November 5, 2018 when she was terminated from her Relationship Manager II position. Plaintiff has an excellent performance history, including positive yearly performance reviews and numerous accolades.

7. Plaintiff was one of the few African American women in the workplace with the majority of her coworkers and upper management being predominately white men and women.

8. Plaintiff was denied the opportunity to apply for an internal transfer, although a white female coworker, Pam Staskus was not. Pam Staskus was later promoted to a Relationship Manager III position, while Plaintiff was refused the opportunity for growth and advancement.

9. Plaintiff took a FMLA Short Term Disability medical leave of absence, instructed by the doctor to treat excessive work-related stress and anxiety from June 2018-September 2018.

10. Plaintiff reported a third-party client for inappropriate behavior, falsification and HIPPA violations.

11. The defendant, WAGEWORKS INC. harassed the plaintiff verbally, all while being well aware of the plaintiff's dyslexia by stating "my ... year old could've caught that error" in front of an audience of approximately 8-10 individuals from within the department.

12. Plaintiff was harassed by management from WAGEWORKS INC. when management stated, "people with short term disability aren't strong enough to be managers." Pam Staskus told Plaintiff a different manager also told her this on a previous occasion.

13. Plaintiff notified Jan Black, Benefits Analyst and Matt Tomme, Human Resources Generalists II on September 20, 2018 about filing a EEOC complaint and outside mediation would be sought. At that time, Plaintiff had a anxiety attach and was

referred to a newly hired, Senior Director of Human Resources, Kathy Jackson for discriminatory, hostile work environment, harassment and retaliation concerns.

14. Plaintiff Darla Rosenfeld, attempted to disapprove time off, while other white employees were approved. The plaintiff Darla had already approved time and was retaliating against me because no other employees were subject to this kind of discriminatory treatment.

15. While Plaintiff was on an approved leave for vacation, Plaintiff was harassed to complete cases and then was threatened her job was at risk if she attempted to make a complaint.

16. Plaintiff was written up for caseload incompleteness even though white coworker, Luis Feinstein affirmed he did not complete his work and falsely closed cases to keep up appearances; he was not held accountable nor written up for his actions. Plaintiff completed her assigned caseload by department standards and according to my book of business; Plaintiff book of business was more than all other 8 HR persons as well as Plaintiff was given Relationship Manager III “senior accounts” without additional pay. The workload was not balanced in reference to others. Plaintiff had 11 Clients in her a Book of Business with 1 client (Four Seasons) having over 40 locations while other employees of the same grade had a solid 11 Clients in their Book of Business. The plaintiff had an impossible workload, therefore such discriminatory practices and unfair treatment and hostile work environment and harassment is extremely discriminatory towards the plaintiff.

17. Plaintiff was denied assistance from Account Manager assigned to assist with casework after Plaintiff recommended additional training for her and her immediately supervisor while other white men and women coworkers were not given same stipulations.

18. Plaintiff's immediate supervisor Darla Rosenfeld referenced Plaintiff as the Black Bear in her neighborhood that would not go away.

19. Plaintiff initially filed #450A2019800063 on October 26, 2018 with EEOC Dallas office-based harassment, hostile work environment and whistleblowing. Plaintiff was told by EEOC Intake Officers to wait to see if she was fired.

20. Plaintiff was left off a department wide email and not included in company activities in June 2018.

CAUSE OF ACTION

a Defendant violated Section 704(a) of Title VII of the Civil Rights Act of 1964 and Section 503(a) of the Americans with Disabilities Act of 1990 by discriminating against the Plaintiff, their employee, by discharging the Plaintiff from her employment due to the position being eliminated, censoring the basis of race, disability and retaliation.

DAMAGES

22. Plaintiff seeks compensatory damages in an amount consistent with Chapter 21 of the Texas Labor Code of a defendant with more than 500 employees, including damages for lost back pay, future wages, pain and suffering, mental anguish, and loss of enjoyment of daily life.

23. Plaintiff seeks reasonable attorney's fees, court costs, expert fees reasonably incurred, and pre- and post-judgment interest at the maximum rate allowed, as permitted by Chapter 21 of the Texas Labor Code.

24. Plaintiff seeks equitable relief in the form of an injunction prohibiting Defendant from engaging in the unlawful employment practice and other additional equitable relief as may be appropriate including, but not limited to, upgrading or promoting Plaintiff to a higher rank with back pay for the maximum period allowed under Chapter 21 of the Texas Labor Code.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

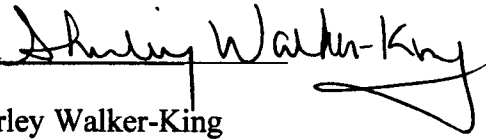
PRAYER FOR RELIEF

THEREFORE, Plaintiff Shirley Walker-King respectfully requests that Defendant be cited to appear and answer, and that on trial Plaintiff be awarded:

1. Judgment against Defendant for damages in an amount within the jurisdictional limits of Court and in accordance with the damages described herein;
2. Pre- and post-judgment interest on that amount at the maximum legal rate;
3. Reasonable attorney's fees, expert fees, and court costs; and
4. Equitable remedy within the Court's power; and
5. Any other relief to which Plaintiff may be entitled.

6. Plaintiff request reasonable damages in the amount of \$250,000 as
a relief.

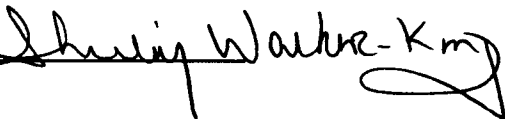
Respectfully submitted,

/s/ 
Shirley Walker-King

Date: May 24, 2021

Certificate of Service

I, certify that on May 24, 2021 a true and correct copy of the above document was served on the Northern District of Texas, through its WAGEWORKS INC. location at 4609 Regent Blvd, Irving, TX 75063 by United States certified mail with return receipt requested.

/s/ 

Shirley Walker-King
1918 Garrison Way
Garland, TX 75040
Phone: (214) 402-5456
Email: swalkerking@yahoo.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by the Federal Rules of Civil Procedure, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

RECEIVED

MAY 28 2021

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

I. (a) PLAINTIFFS

Shirley Walker-King

(b) County of Residence of First Listed Plaintiff Dallas County, Texas
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
Prose

DEFENDANTS

WAGEWORKS INC.

County of Residence of First Listed Defendant Dallas Texas
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

DENTONS US LLP

1530 Page Mill Road Suite 200 Palo Alto, CA 94304-1125

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

- | | | | | | |
|--|--|---|--|--|---|
| <input type="checkbox"/> 110 Insurance | <input type="checkbox"/> 310 Airplane | <input type="checkbox"/> 365 Personal Injury - Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 422 Appeal 28 USC 158 | <input type="checkbox"/> 375 False Claims Act |
| <input type="checkbox"/> 120 Marine | <input type="checkbox"/> 315 Airplane Product Liability | <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability | <input type="checkbox"/> 690 Other | <input type="checkbox"/> 423 Withdrawal 28 USC 157 | <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) |
| <input type="checkbox"/> 130 Miller Act | <input type="checkbox"/> 320 Assault, Libel & Slander | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | | <input type="checkbox"/> 820 Copyrights | <input type="checkbox"/> 400 State Reapportionment |
| <input type="checkbox"/> 140 Negotiable Instrument | <input type="checkbox"/> 330 Federal Employers' Liability | <input type="checkbox"/> 370 Other Fraud | | <input type="checkbox"/> 830 Patent | <input type="checkbox"/> 410 Antitrust |
| <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment | <input type="checkbox"/> 340 Marine | <input type="checkbox"/> 371 Truth in Lending | | <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application | <input type="checkbox"/> 430 Banks and Banking |
| <input type="checkbox"/> 151 Medicare Act | <input type="checkbox"/> 345 Marine Product Liability | <input type="checkbox"/> 380 Other Personal Property Damage | | <input type="checkbox"/> 840 Trademark | <input type="checkbox"/> 450 Commerce |
| <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) | <input type="checkbox"/> 350 Motor Vehicle | <input type="checkbox"/> 385 Property Damage Product Liability | | <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 | <input type="checkbox"/> 460 Deportation |
| <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits | <input type="checkbox"/> 355 Motor Vehicle Product Liability | | <input type="checkbox"/> 710 Fair Labor Standards Act | | <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations |
| <input type="checkbox"/> 160 Stockholders' Suits | <input type="checkbox"/> 360 Other Personal Injury | | <input type="checkbox"/> 720 Labor/Management Relations | <input type="checkbox"/> 861 HIA (1395ff) | <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) |
| <input type="checkbox"/> 190 Other Contract | <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | | <input type="checkbox"/> 740 Railway Labor Act | <input type="checkbox"/> 862 Black Lung (923) | <input type="checkbox"/> 485 Telephone Consumer Protection Act |
| <input type="checkbox"/> 195 Contract Product Liability | | | <input type="checkbox"/> 751 Family and Medical Leave Act | <input type="checkbox"/> 863 DIWC/DIWW (405(g)) | <input type="checkbox"/> 490 Cable/Sat TV |
| <input type="checkbox"/> 196 Franchise | | | <input type="checkbox"/> 790 Other Labor Litigation | <input type="checkbox"/> 864 SSID Title XVI | <input type="checkbox"/> 850 Securities/Commodities/Exchange |
| | | | <input type="checkbox"/> 791 Employee Retirement Income Security Act | <input type="checkbox"/> 865 RSI (405(g)) | <input type="checkbox"/> 890 Other Statutory Actions |
| <input type="checkbox"/> 210 Land Condemnation | <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 463 Alien Detainee | | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) | <input type="checkbox"/> 891 Agricultural Acts |
| <input type="checkbox"/> 220 Foreclosure | <input type="checkbox"/> 441 Voting | <input type="checkbox"/> 510 Motions to Vacate Sentence | | <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 893 Environmental Matters |
| <input type="checkbox"/> 230 Rent Lease & Ejectment | <input checked="" type="checkbox"/> 442 Employment | <input type="checkbox"/> 530 General | | | <input type="checkbox"/> 895 Freedom of Information Act |
| <input type="checkbox"/> 240 Torts to Land | <input type="checkbox"/> 443 Housing/Accommodations | <input type="checkbox"/> 535 Death Penalty | | | <input type="checkbox"/> 896 Arbitration |
| <input type="checkbox"/> 245 Tort Product Liability | <input type="checkbox"/> 445 Amer. w/Disabilities - Employment | <input type="checkbox"/> 540 Mandamus & Other | <input type="checkbox"/> 462 Naturalization Application | | <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision |
| <input type="checkbox"/> 290 All Other Real Property | <input type="checkbox"/> 446 Amer. w/Disabilities - Other | <input type="checkbox"/> 550 Civil Rights | <input type="checkbox"/> 465 Other Immigration Actions | | <input type="checkbox"/> 950 Constitutionality of State Statutes |
| | <input type="checkbox"/> 448 Education | <input type="checkbox"/> 555 Prison Condition | | | |
| | | <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Discrimination based on Race, Disability, Retaliation, Whistle Blowing, Hostile Work Environment and Harassment

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
\$250,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

28 May 2021

SIGNATURE OF ATTORNEY OF RECORD

Shirley Walker-King - Prose

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____